

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:08CR14

UNITED STATES OF AMERICA

VS.

UZZIEL CUEVAS-MENDEZ

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ORDER

THIS MATTER is before the Court on Defendant's motion for an order requiring his immediate deportation, filed April 20, 2009.

The Defendant argues that he is an alien as defined by the statute and was convicted for a non-violent offense; therefore, he alleges he is eligible for immediate deportation. As argued by the Government, the Court has no discretion to provide the requested relief. **See Government's Response, filed April 23, 2009, at 3 (8 U.S.C. § 1231(a)(4)(B) "makes clear that only the Attorney General, not the sentencing court, possesses the discretion to deport an alien prior to the completion of his prison term." (citing *Thye v. United States*, 109**

F.3d 127, 128 (2d Cir. 1997)). For the reasons stated in the Government's response, the Defendant's motion is denied.

IT IS, THEREFORE, ORDERED that the Defendant's motion for immediate deportation is **DENIED**.

Signed: May 14, 2009

A handwritten signature in black ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

